

**THE STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
LOS ANGELES REGION**

Resolution No. 06-XXX

**Approving a Revised Supplemental Environmental Project List and Authorizing
the Executive Officer to Administer the Supplemental Environmental
Project Program**

Whereas, the California Regional Water Quality Control Board, Los Angeles Region (Regional Board) finds:

1. Pursuant to California Water Code (CWC) § 13323, executive officers of regional water quality control boards (regional boards) may issue administrative civil liability complaints (ACLs) to any person violating the provisions of the Porter-Cologne Water Quality Control Act (CWC § 13000 et seq.), including dischargers violating waste discharge requirements, discharge prohibitions, enforcement orders, or other orders of the regional boards. The CWC requires that assessments collected through the ACL process be paid into state funds, such as the Cleanup and Abatement Account or the Waste Discharge Permit Fund, based on the type of violation involved. The State Water Resources Control Board (State Board) administers these funds to address important water quality activities throughout the state.
2. Section IX of the State Board's Water Quality Enforcement Policy allows for a portion of certain penalties assessed by the regional boards to be directed towards water quality improvement projects within the region in which the assessments were made. These projects are referred to as Supplemental Environmental Projects (SEPs).
3. Selection and management of the SEP process is cumbersome and often burdensome on individual violators. In contrast to smaller, independent SEPs, large-scale, more comprehensive SEPs are often successful in reversing the negative impacts on the environment caused by illicit discharges.
4. The Regional Board facilitates the SEP process by maintaining a list of pre-approved projects that can be funded to offset portions of assessed penalties. The SEP List is available on the Regional Board's website.
5. On November 19, 2001, Regional Board staff conducted a workshop designed to familiarize interested parties with the SEP process, SEP qualification criteria, information required by the Regional Board for a SEP, and the SEP management process.
6. On February 28, 2002, the Regional Board adopted Resolution No. 02-007, which approved an initial SEP List and authorized the Executive Officer to administer the SEP List and its associated programs for the Regional Board.
7. On September 26, 2002, the Regional Board rescinded Resolution No. 02-007 and adopted Resolution No. 02-016 which clarified the process for SEP proposal hearings and periodic updating of the SEP List and authorized the executive

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January 5, 2006

officer to administer the SEP List and its associated programs for the Regional Board.

8. On March 13, 2003, the Regional Board rescinded Resolution No. 02-016 and adopted Resolution No. 03-003, which added nine SEPs to and removed three SEPs from the SEP List.
9. On June 10, 2004, the Regional Board rescinded Resolution No. 03-003 and adopted Resolution No. 04-009 which added eleven new SEPs to the SEP List, divided projects by watershed, limited the number of SEPs on the SEP list to 40, established a procedure to remove unfunded or partially funded SEPs after three years, and required submittal of detailed workplans for the implementation of proposed SEPs.
10. On January 27, 2005, the Regional Board adopted Resolution No. 05-001, which added three new SEPs to the SEP List and rescinded Resolution No. 04-009.
11. Regional Board staff reviewed fourteen SEP proposals submitted after the adoption of Resolution No. 05-001, and have determined that ten proposed SEPs warrant Regional Board approval. SEPs that were no longer viable and those SEPs that have received complete funding were removed from the SEP List and are no longer eligible to receive SEP funding. The Revised SEP List is attached hereto as Attachment A and incorporated herein by reference. Copies of the new SEP proposals are attached hereto as Exhibit A through J and are incorporated herein by reference.
12. Regional Board staff recommends the rescission of Resolution No. 05-001 and the adoption of Resolution No. 06-XXX which contains the Revised SEP List and the ten new proposals.
13. Notice of the proposed adoption of the Revised SEP List was published in the Los Angeles Times and the Ventura County Star on December 4, 2005. Interested Parties received notice by mail and comments were accepted until January 5, 2006.

THEREFORE BE IT RESOLVED BY THE REGIONAL BOARD THAT:

The Regional Board hereby approves and adopts the Revised SEP List (Attachment A) and the ten new SEP proposals (Exhibits A through J) and authorizes the Executive Officer to administer the SEP List and its associated programs, subject to the following provisions:

1. Dischargers may elect to pay a portion of the ACL assessed against them by committing to SEPs as identified within the State Board's Enforcement Policy. In an effort to come into compliance with the requirement of the Complaint issued against them, individual dischargers may choose to fund SEPs from the SEP List.
2. Should a Discharger request to fund a SEP(s) on the Revised SEP List, the Discharger will be required to submit a letter identifying the SEP. Since the SEPs on the Revised SEP List have already been the subject of a Regional

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January 5, 2006

Board hearing, no additional hearing shall be required. However, a violator may not fund a SEP consisting of any project that is required by any permit, regulation or law the Discharger may be regulated under. The SEP chosen must be approved by Regional Board staff prior to funding.

3. Should a Discharger choose to fund a SEP(s) from the SEP List, and following Regional Board staff determination that the SEP(s) is eligible for funding by the Discharger, copies of the following must be provided to the Regional Board by the due date listed in the complaint:
 - a) the signed waiver on complaint;
 - b) a letter identifying which SEP(s) from the SEP List has been chosen for funding and the amount committed to the SEP(s); and
 - c) the check(s) submitted to the SEP Proponent funding the SEP(s).
4. In the event any Discharger or Proponent fails to provide the Regional Board with proof of payment to the SEP by the due date in the complaint, the Discharger must submit the balance of the penalty to the State Water Resources Control Board Cleanup and Abatement Account. The Regional Board Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement if the Discharger fails to submit proof of payment to the SEP by the due date in the complaint.
5. The Revised SEP List will be published as the Supplemental Environmental Project List.
6. The SEPs on the SEP List will be sorted by watershed, as identified in the "Regional Water Quality Control Board Basin Plan."
7. The SEP List shall be limited to a maximum of 40 (forty) SEPs.
8. The proponents of the ten new SEP proposals (Exhibits A through J) shall submit a detailed workplan for the implementation of their proposed SEPs. The workplan is due by February 21, 2006, and is subject to approval by the Executive Officer. No SEP monies shall be contributed to the proposed project until the workplan is approved.
9. All SEP proponents listed on the Revised SEP List shall notify Regional Board staff of the receipt of any other funding from Propositions 13 and 50, section 319 of the Clean Water Act, Grant Programs, or other source. The proponent/auditor of each SEP shall provide documentation to the Regional Board illustrating that the monies received through other sources will not fund projects that are already funded or plan to be funded with SEP monies. This notification and clarification shall accompany the SEP developer's workplan, and shall be updated in the event of any funding source changes.
10. In the event any proponent of an approved SEP fails to submit a workplan or fails to complete the project as specified in the approved workplan, all payments received by the SEP proponent/auditor to conduct and complete the SEP shall be due and payable immediately to the State Water Resources Control Board Cleanup and Abatement Account, regardless of the stage of completion of the project.

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11. In order to provide new SEPs the opportunity for inclusion on the SEP List, any SEPs remaining unfunded or partially funded after 3 years on the SEP List shall be removed from the list by Regional Board staff, if previously funded work is not adversely affected.
12. SEPs that have been successfully completed or SEPs that have been abandoned will be removed from the SEP List.
13. All proponents of SEP(s) removed shall submit a Final Report to this Regional Board within 30 days following the date of removal from the SEP List. The Final Report shall contain an accounting of all funds received, monies spent, and receipts to substantiate each expense, as well as a detailed description of the SEP as actually completed. The proponent shall submit a copy of the Final Report and remit all unused funds to the State Water Resources Control Board Cleanup and Abatement Account within 30 days of the removal of their project from the SEP List.
14. In the event any Proponent fails to provide the Regional Board with a Final Report or fails to remit all unused funds to the State Water Resources Control Board Cleanup and Abatement Account, the Regional Board Executive Officer is authorized to refer this matter to the Office of the Attorney General for enforcement.
15. Regional Board staff shall continue the SEP List update process. SEPs meeting the qualifications and guidelines set forth in the Regional Board's "Supplemental Environmental Projects Application Information" shall be presented to the Regional Board for consideration during a scheduled meeting.

BE IT FURTHER RESOLVED BY THE REGIONAL BOARD THAT:

Regional Board Resolution No. 05-001 is hereby rescinded.

I, Jonathan S. Bishop, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Los Angeles Region on January 19, 2006.

Jonathan S. Bishop
Executive Officer

January 5, 2006